

#### § 2801.4

#### 43 CFR Ch. II (10–1–02 Edition)

willfull trespass. In all cases the trespasser shall pay whichever is the higher of the computed penalty or minimum penalty amount.

(e) Failure to satisfy the requirements of § 2801.3(b) of this title shall result in the denial of any right-of-way, temporary land use, road use application or other lands use request filed by not yet granted until there has been compliance with the provisions of § 9239.7–1 of this title.

(f) Any person adversely affected by a decision of the authorized officer issued under this section may appeal that decision under the provisions of part 4 of this title.

(g) In addition to the civil penalties provided for in this part, any person who knowingly and willfully violates the provisions of § 2801.3(a) of this title may be tried before a United States magistrate and fined no more than \$1,000 or imprisoned for no more than 12 months, or both, as provided by section 303(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1733(a)) and § 9262.1 of this title.

[54 FR 25854, June 20, 1989]

#### § 2801.4 Right-of-way grants issued on or before October 21, 1976.

A right-of-way grant issued on or before October 21, 1976, pursuant to then existing statutory authority is covered by the provisions of this part unless administration under this part diminishes or reduces any rights conferred by the grant or the statute under which it was issued, in which event the provisions of the grant or the then existing statute shall apply.

[51 FR 6543, Feb. 25, 1986]

### Subpart 2802—Applications

#### § 2802.1 Preapplication activity.

(a) Anyone interested in obtaining a right-of-way grant or temporary use permit involving use of public lands is encouraged to establish early contact with the Bureau of Land Management office responsible for management of the affected public lands so that potential constraints may be identified, the proposal may be considered in land use plans, and processing of an application may be tentatively scheduled. The ap-

propriate officer shall furnish the proponent with guidance and information about:

(1) Possible land use conflicts as identified by review of land use plans, land ownership records and other available information sources;

(2) Application procedures and probable time requirements;

(3) Applicant qualifications;

(4) Cost reimbursement requirements;

(5) Associated clearances, permits and licenses which may be required in addition to, but not in place of the grants or permits required under these regulations;

(6) Environmental and management considerations;

(7) Any other special conditions that can be identified;

(8) Identification of on-the-ground investigations which may be required in order to complete the application; and

(9) Coordination with Federal, State and local government agencies.

(b) Any information furnished by the proponent in connection with a preapplication activity or use which he/she requests not be disclosed, shall be protected to the extent consistent with the Freedom of Information Act (5 U.S.C. 552).

(c) No right-of-way applications processing work, other than that incurred in the processing of applications for permits for temporary use of public lands in furtherance of the filing of an application and pre-application guidance under paragraph (a) of this section, shall be undertaken by the authorized officer prior to the filing of an application together with advance payment as required by subpart 2808 of this title. Such processing work includes, but is not limited to, special studies such as environmental analyses, environmental statements, engineering surveys, resource inventories and detailed land use or record analyses.

(d) The prospective applicant is authorized to go upon the public lands to perform casual acts related to data collection necessary for the filing of an acceptable application. If, however, the authorized officer determines that appreciable surface or vegetative disturbance will occur or is a real possibility he shall issue a temporary use permit